

**REMARKS**

Please reconsider the application in view of the above amendments and the following remarks. Applicants thank the Examiner for carefully considering this application.

**Disposition of Claims**

Claims 3-4, 6-7, 9-13, 15-16, 18-21, 24-25, and 27-30 are pending in the referenced application. Claims 1, 2, 5, 8, 14, 17, 22-23 and 26 are cancelled without prejudice or disclaimer. Claims 3, 4, 13, and 20 are independent. The remaining claims depend, directly or indirectly, on the aforementioned independent claims.

**Claim Amendments**

The independent claims are amended to clarify the invention. Support for the amendments to the independent claims may be found, for example, in Fig. 3 of the specification as well as the originally filed claims. Further, claims 9, 11, 18, 24, 25, 27-30 are amended to address dependency issues and for consistency with the amendments made to the aforementioned independent claims. No new matter is added by any of the aforementioned amendments.

**Information Disclosure Statements**

Applicants request the Examiner to acknowledge which references he considered in the IDS filed on October 30, 2007.

**Rejections Under 35 U.S.C. § 102**

Claims 4, 13, and 22 are rejected under 35 U.S.C. § 103 as being anticipated by U.S. Patent No. 7,321,936 ("Zimmerman"). Claim 22 is cancelled by this reply. Accordingly, this rejection is now moot with respect to claim 22. To the extent that this rejection applies to the amended claims, this rejection is respectfully traversed.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Further, the elements must be arranged as required by the claim and all words in a claim must be considered in judging the patentability of that claim against the prior art. *See*, MPEP § 2131.

Amended claims 4 and 13 recite, in part, (i) powering up the network device, wherein the network device is associated with a private VLAN prior to being powered up; (ii) supplying, after powering up the network device, first boot data to the network device over a network, wherein processing of the first boot data by the network device during a first startup of the network device causes the network device to bootstrap in image mode and, once in image mode, to execute a provisioning process over the network; (iii) powering down the network device after receiving the at least one computer program; (iv) re-configuring, after powering down the network device after receiving the at least one computer program, the network to remove the network device from the private VLAN; (v) powering up, after re-configuring the network, the network device; and (vi) supplying, after powering up the network device, second boot data to the network device over the network, wherein processing of the second boot data by the network device during a second startup of the network device causes the network device to bootstrap in application mode and to execute the at least one computer program contained in the image data, wherein the first boot data is a first boot

loader script and the second boot data is a second boot loader script. (Emphasis Added) *See* Specification, Fig. 3.

From the above it is clear independent claims 4 and 13 require a series of steps to configure a network device that includes powering up and powering down the network device in a particular order and performing various steps before and after the powering up and powering down. Further, the network device is configured to support both image mode and application mode.

Turning to the prior art, Zimmerman fails to disclose configuring a network device using the specific steps recited in the claim. Further, Zimmerman fails to disclose a network device configured to operate in application mode and in image mode as recited in claims. Accordingly, Zimmerman fails to disclose all the elements on amended independent claims 4 and 13. Withdrawal of this rejection is respectfully requested.

### **Rejections Under 35 U.S.C. § 103**

MPEP § 2143 states that “[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit.” Further, when combining prior art elements, the Examiner “must articulate the following: (1) a finding that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference....” MPEP § 2143(A); *KSR International Co. v. Teleflex Inc.*, 550 USPQ2d 1385 (2007). Applicants assert that the Examiner has failed to show sufficient evidence to establish a *prima facie* case of obviousness

with respect to the pending claims. Specifically, the Examiner has failed to establish a *prima facie* case of obviousness for at least the following reasons set forth below

Claims 1-3, 5, 8-12, 14, 17-21, 23, and 26-30 stand rejected under 35 U.S.C. § 103 as being obvious in view of Zimmerman and U.S. Patent No. 6,223,218 (“Iijima”). Claims 1, 2, 5, 8, 14, 17, 23 and 26 have been cancelled by this reply. Accordingly, this rejection is now moot with respect to the cancelled claims. To the extent that this rejection applies to the amended claims, this rejection is respectfully traversed.

As discussed above, Zimmerman fails to disclose or render obvious the limitations of amended independent claims 4 and 13. Independent claims 3 and 20 include at the same limitations as independent claims 4 and 13. Accordingly, Zimmerman also fails to disclose or render obvious the limitations of amended independent claims 3 and 20. Further, Iijima fails to disclose or otherwise provide that which Zimmerman lacks. Specifically, Iijima also fails to disclose or render obvious configuring a network device using the specific steps recited in the claim. Further, Iijima also fails to disclose or render obvious a network device configured to operate in application mode and in image mode as recited in claims.

In view of the above, the Examiner has not established a *prima facie* case of obviousness for amended independent claims 3, 4, 13, and 20. Based on this the Examiner has also failed to establish a *prima facie* case of obviousness for the pending dependent claims. Withdrawal of this rejection is respectfully requested.

Claims 6, 7, 15, 16, 24, and 25 stand rejected under 35 U.S.C. § 103 as being obvious in view of Zimmerman, Iijima, and U.S. Patent No. 7,069,428 (“Miyamoto”). To the extent that this rejection applies to the amended claims, this rejection is respectfully traversed.

As discussed above, Zimmerman and Iijima fail to disclose or render obvious the limitations of independent claims 3, 4, 13, and 20. Further, Miyamoto fails to disclose or otherwise provide that which Zimmerman and Iijima lack. Specifically, Miyamoto also fails to disclose or render obvious configuring a network device using the specific steps recited in the claim. Further, Miyamoto also fails to disclose or render obvious a network device configured to operate in application mode and in image mode as recited in claims.

In view of the above, the Examiner has not established a prima facie case of obviousness for amended independent claims 3, 4, 13, 20. Based on this the Examiner has also failed to establish a prima facie case of obviousness for the pending dependent claims. Withdrawal of this rejection is respectfully requested.

### **Conclusion**

Applicants believe this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 33227/470001).

Dated: September 2, 2009

Respectfully submitted,

By /Robert P. Lord/  
Robert P. Lord  
Registration No.: 46,479  
OSHA · LIANG LLP  
3945 Freedom Circle, Suite 300  
Santa Clara, California 95054  
(408) 727-0600  
(408) 727-8778 (Fax)  
Attorney for Applicants